

### **REMARKS**

Claims 1-11 were pending in the application and under consideration in the Office Action issued March 22, 2005. Claims 12-95 were subject to restriction and were cancelled in the restriction election of February 9, 2005. In response to the Office Action, Applicant has cancelled Claims 1-11, without prejudice, and has offered new Claims 96-129, which new claims are drawn to the elected invention. Upon entry of the amendments, Claims 96-129 are now pending.

Support for the new claims is found in the specification and claims as originally filed. For example, support for Claim 96 is found in cancelled Claims 1 and 4. Support for Claim 97 is found in cancelled Claims 1 and 5. Support for new Claim 108 is found in cancelled Claims 1, 6, and 7. Support for new Claim 109 is found in cancelled Claims 1, 6, and 8. Support for new Claim 119 is found, for example, in cancelled Claims 1, 9, and 10. Support for new Claim 120 is found, for example, in cancelled Claim 1, 9, and 11. Support for dependent claim 98 is found for example in paragraph 22 of the specification, found on page 8. Support for the dependent Claims 99-107, 110-118, and 121-129 is found, for example, on pages 12-18 of the specification and in the examples. Applicant respectfully requests entry of the Amendments.

### **TELEPHONIC INTERVIEW WITH EXAMINER NUTTER OF MARCH 29**

Applicant would like to thank Examiner Nutter for the courtesies extended to Applicant's representative, Ronald Wangerow, in a telephone conference on March 29, 2005. Examiner Nutter confirmed that Claims 4, 5, 7, 8, 10 and 11, not listed as rejected on the basis of the Martinez reference and the Sakai reference, in fact contain allowable

subject matter and would be allowable if written in independent form. Applicant has prepared the current Amendment based on that understanding.

#### Telephone interview with Examiner Nutter of August 22

Applicant also thanks Examiner Nutter for the courtesies extended to Applicant's representative, Mark Frentrup, in a telephone interview on August 22, 2005. The nature of Applicant's non-responsive reply was discussed along with the circumstances of the erroneous re-presentation of Claims 86-95 that had been cancelled earlier. The earlier presentation of Claims 96-129 drawn to elected invention I was also discussed. It was agreed that Applicant would file a supplemental reply to address the non-responsive nature of the June 20 reply.

#### Bona fide attempt to advance prosecution

Although the earlier reply was considered non-responsive by reason of the erroneous re-presentation of earlier cancelled claims, Applicant respectfully submits the June 20 reply was a *bona fide* attempt to advance prosecution and requests an additional short period of time in which to file a reply without paying petition fees to extend the time period under 37 C.F.R. §1.136(a). The *bona fide* nature is seen in the fact that the current claims 96-129 were also offered on June 20, along with an explanation of how the new claims read on the allowable subject matter of Claims 1-11 drawn to the elected invention, as further discussed below.

#### Provisional petition for a two month extension of time

Accordingly, Applicant provisionally petitions for a 2-month extension of time in which to reply to the Office Action of March 22, 2005. A check in the amount of \$450 is

enclosed to cover the petition fee. If the earlier reply can be counted as *bona fide* and a petition fee avoided, please credit any overpayment to Harness, Dickey, and Pierce deposit account 08-0750.

#### **SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT**

Applicant calls the Examiner's attention to a Supplemental IDS filed in the case on May 10, 2005. The Examiner is respectfully requested to consider the art cited there and return an initialized Form 1449 with the next Office Action.

#### **CLAIMS 86-95 – OFFERED IN THE NON-RESPONSIVE REPLY**

In response to the January 7, 2005 Restriction Requirement, Applicant elected Group I with traverse, Group I being drawn to claims 1-11, from which new claims 96-129 of this amendment are derived. Claims 86-95 were listed as belonging to Invention Group IX in the restriction requirement, and as such, they appear to be drawn to a non-elected invention.

Not realizing they had been already cancelled, Applicant's representative mistakenly offered Claims 86-95 in the non-responsive reply filed June 20, 2005, along with arguments essentially in traverse of the restriction requirement. Because of this, Applicant's reply offering the (already cancelled) claims was deemed non-responsive and not a *bona fide* attempt to advance prosecution. Applicant apologizes for the confusion caused.

As noted above, however, responsive Claims 96-129 were offered on June 20. Moreover, there was no intent to present cancelled claims. Applicant respectfully

submits that the March 22, 2005 response as a whole was a *bona fide* attempt to advance prosecution.

#### **ART REJECTIONS**

Claims 1-3, 6 and 9 were rejected as anticipated by the Martinez reference (U.S. Patent No. 5,459,202). Applicant has cancelled these claims, obviating the rejection. Nevertheless, for the record, Applicant respectfully traverses the rejection as applied to those claims.

For a rejection of claims under §102 to be sustained in light of a reference, the reference must disclose each and every limitation of the claims. If any limitation is present in the claims, but not in the reference, the §102 rejection should be withdrawn.

The Martinez reference does not disclose a processable rubber composition comprising a cured fluorocarbon elastomer dispersed in a thermoplastic material. Rather, the Martinez reference is drawn to mold curing a blend of fluorocarbon elastomer and a hydrocarbon polymer. The process is described at column 4 beginning at line 37. An uncured fluorocarbon elastomer and a hydrocarbon polymer are first blended, for example by cross-cutting. At this stage, the blend does not contain cured fluorocarbon elastomer dispersed in a matrix, although the mixture is processable. After the blend is formed, the composition is placed in a mold under pressure, wherein the composition is heated to cure it. Column 4, line 54-58. At this stage, while arguably Martinez shows a cured fluorocarbon elastomer dispersed in a matrix, it is not at this stage a processable rubber composition, as it is a thermoset seal material. Further, the reference does not disclose or suggest the use of thermoplastic materials that have a glass transition temperature or a

melting temperature above 150°C (Claims 96-129). Because the Martinez reference fails to disclose at least one limitation of all of Applicant's new claims, the new claims are patentable over the reference. Accordingly, Applicant respectfully requests the rejection, as applied to the amended claims, be withdrawn.

Claims 1-3 and 6 were rejected under §102 as anticipated by the Sakai reference (U.S. Patent No. 5,206,293). All of the claims rejected in view of Sakai have been amended and presented as new claims containing at least one limitation from Claims 4, 5, or 7-11. Since the latter claims are not anticipated by Sakai, the amended claims containing those limitations are patentable in view of the reference.

#### **NEW CLAIMS 96-129**

In this Response, Applicant is presenting new Claims 96-129 which embody the subject matter of claims that were acknowledged to be allowable in the Interview of March 29, 2005. Of these new claims, Claims 96, 97, 108, 109, 119 and 120 correspond identically to cancelled (but allowable) claims 4, 5 7, 8, 10 and 11 (respectively), being written in independent form. The remaining new claims are dependent from allowable new claims 97, 109, and 120, and are added to provide a more complete recitation of subject matter. As these claims are dependent, Applicant submits that they are also allowable.

To aid the Examiner's review, the following is a table showing the correspondence of each of new Claims 96-129 with originally presented claims.

<b>Claim</b>	<b>Derived from Claim</b>
96	4
97	5

98-107	Species dependent from 97
108	7
109	8
110-118	Species dependent from 109
119	10
120	11
121-129	Species dependent from 120

Applicant believes, in view of the Examiner's clarification in the March 29 telephone conference, that the newly offered claims are patentable. Accordingly, Applicant respectfully requests the new claims be passed to a state of allowability.

**CONCLUSION**

For the reasons discussed above, Applicant believes that Claims 96-129 are in a state of allowability and respectfully requests an early Notice of Allowance. The Examiner is invited to telephone the undersigned if that would be helpful in resolving any issues.

Respectfully submitted,

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